

OLC 78-0487/ 31 28-0-015/18

18 September 1978

MEMORANDUM FOR THE RECORD

SUBJECT: Civil Service Reform Legislation

1. The House-Senate conferees began deliberations this morning on the Civil Service Reform Legislation (S. 2640/H.R. 11280). Representative Morris K. Udall (D., Ariz.) was designated Chairman; Senator Abraham A. Ribicoff (D., Conn.), took the lead in speaking for the Senate conferees. The undersigned, [redacted] Assistant Legislative Counsel, and [redacted] Office of General Counsel, attended as observers.

2. The conferees agreed the next formal conference session would be 10 a.m., Tuesday, 26 September, and that, since Senator Ribicoff would be unavailable until that time, an informal session would be held at 2 p.m., Wednesday, 20 September.

3. The major substantive issues were identified as follows:

(1) Exclusions

(a) Foreign Service

(2) Investigations of allegations

(3) Stays of agency personnel action

(4) Appeals procedures and standards

(5) Adverse action - discrimination

(6) Attorney fee reimbursements

(7) Term of office and removal of Director of OPM

(8) Judicial review of Merit Board - Court of Appeals or District Court

- ( 9) Executive pay level of Presidential appointees ( Senate lower )
- (10) Cap on Federal employees
- (11) Veterans preference - numerous differences (e g , notification of preference eligibles )
- (12) SES effective date - experimental in House for 2 years; Senate 9 months
- (13) Establish of career reserve positions - floor (no House provision)  
Maximum on total number of executive positions (House)
- (14) Pay and benefits of SES employees (pay cap in House; amounts of awards)
- (15) Authority to exempt agencies from merit pay (Presidential exemption power)
- (16) Inflation pay adjustments
- (17) Research and Development - renewals thereof
- (18) Flexi-time - (no Senate provision)  
- HOUSE RECEDES (since Senate passed its bill on Friday 9/15)
- (19) Status of FLRA
- (20) Judicial review of FLRA
- (21) Matters excluded from labor relations process
- (22) Power to withhold dues
- (23) Exclusivity of grievance procedures
- (24) Title VIII of House bill - save grade, save pay
- (25) SES appealable rights

4. The conferees considered the following issues:

a. Issue 18 (flexi-time)

Inasmuch as the Senate passed the flexi-time bill identical with the House version--which was included in Title VI of H.R. 11280--on Friday, 15 September, the conferees agreed to drop the flexi-time provision from the agenda and from the House bill.

b. Issue 15 (Authority to exempt from Merit Pay)

House to recede from its version with amendments. The amendments, on the issue of Presidential authority to make further exemptions from Merit Pay, apparently relate to such matters as providing an annual justification for such exemptions. (The CIA is exempt from the Merit Pay provisions in the first instance by virtue of our exemption from the Pay Classification Act.

c. Issue 17 (Research Programs)

The issue here was left open for consideration at the next meeting; one issue is the amount of advance notification which must be made prior to initiating a research program. (This issue is not of significant concern to the Agency.)

d. Issue 6 (Awarding of attorney and other fees)

There was no resolution of this matter, which is not of direct concern to this Agency. It will be debated at the next session.

e. Issue 8 (Judicial Review of Merit System Protection Board decisions)

The discussion of this issue, which also is not of direct concern of this Agency, concerns whether appeals should go to the U.S. District Courts or the U.S. Courts of Appeal; the issue was left open.

f. Issue 10 (Ceiling on the number of Federal employees)

Conferees from both Houses noted there would be strong disagreements on this point; only the House bill contains such a provision.

g. Issue 9 (Executive Level Pay)

This issue was raised, but not debated.



Chief, Legislation Staff

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